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ENVIRONMENTAL DEFENSE CENTER

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CENTER FOR BIOLOGICAL DIVERSITY, a)	Case No. C-04 4324 WHA
non-profit corporation, and ENVIRONMENTAL)	
DEFENSE CENTER, a non-profit corporation,)	
)	STIPULATION SETTLING PLAINTIFFS'
Plaintiffs,)	CLAIM FOR FEES AND COSTS AND
)	[PROPOSED] ORDER
vs.)	
)	
U.S. FISH AND WILDLIFE SERVICE and)	
GALE A. NORTON, Secretary of the Interior,)	
)	
Defendants.)	

1 Plaintiffs Center for Biological Diversity and Environmental Defense Center and Defendants
2 U.S. Fish and Wildlife Service and Gale Norton, Secretary of the U.S. Department of the Interior
3 (collectively, “the Service”), by and through their undersigned counsel, say as follows:

4 WHEREAS on August 4, 2004, the Service issued a final rule downlisting the Santa Barbara
5 County distinct population segment of the California tiger salamander (“Santa Barbara population”) and
6 the Sonoma County distinct population segment of the California tiger salamander (“Sonoma
7 population”) from “endangered” status to “threatened” status under the Endangered Species Act,
8 eliminating the status of these populations as distinct population segments, listing the California tiger
9 salamander, including the Central California population of the California tiger salamander (Central
10 California population), rangewide as “threatened”, and adopting a special regulation pursuant to Section
11 4(d) of the Endangered Species Act authorizing take of the California tiger salamander if it occurs as a
12 result of routine ranching practices;

13 WHEREAS on October 13, 2004, Plaintiffs filed a Complaint against the Service challenging
14 the portions of the August 4, 2004 rule downlisting the Santa Barbara and Sonoma populations,
15 eliminating their status as distinct population segments, and adopting the Section 4(d) special
16 regulation, as well as the failure of the Service to designate critical habitat for the Central California
17 and Sonoma populations;

18 WHEREAS on February 3, 2005, this Court approved Plaintiffs’ and Defendants’ settlement on
19 Plaintiffs’ Fifth Claim for Relief providing for the designation of critical habitat by dates certain for the
20 Central California salamander and the Sonoma salamander;

21 WHEREAS on August 18, 2005, this Court granted in part Plaintiffs’ Motion for Summary
22 Judgment on Plaintiffs’ remaining claims, and on August 22, 2005 entered final Judgment, vacating the
23 downlisting of the Santa Barbara and Sonoma populations and the elimination of their status as distinct
24 population segments, reinstating their status as “endangered” distinct population segments, and
25 remanding to the Service for any further rulemaking;

26 WHEREAS Plaintiffs have submitted a claim for their attorneys’ fees and costs in this matter to
27 Defendants;

28 WHEREAS, the parties agree that it is in the interest of the parties and judicial economy to

1 settle Plaintiffs' claim for attorneys' fees and costs without further litigation; and

2 WHEREAS, the parties enter this Stipulation without any admission of fact or law, or waiver of
3 any claims or defenses, factual or legal.

4 NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS
5 FOLLOWS:

- 6 1. Defendants agree to settle all of Plaintiffs' claims for costs and attorneys' fees incurred in
7 the above-captioned matter, for a total of \$230,000.00. A check will be made payable in that
8 amount to the Environmental Defense Center, 906 Garden St., Santa Barbara, CA 93101;
- 9 2. Defendants agree to submit all necessary paperwork to the Department of Treasury's
10 Judgment Fund Office, pursuant to 16 U.S.C. § 1540(g)(4), within ten (10) business days of
11 receipt of the signed court order approving this stipulation;
- 12 3. Plaintiffs agree to accept payment of \$230,000.00 in full satisfaction of any and all claims
13 for attorneys' fees and costs of litigation in the above-captioned litigation, through and
14 including the date of this agreement;
- 15 4. By this agreement, Defendants do not waive any right to contest fees claimed by Plaintiffs
16 or Plaintiffs' counsel, including the hourly rate, in any future litigation. Further, this
17 stipulation as to attorney's fees and costs has no precedential value and shall not be used by
18 any party as evidence in any other attorneys' fees litigation.

19 Respectfully submitted this 26th day of September, 2005.

21 KELLY A. JOHNSON
22 Acting Assistant Attorney General
23 JEAN E. WILLIAMS, Chief
24 /s/ Bridget Kennedy McNeil
25 BRIDGET KENNEDY McNEIL
26 Trial Attorney (SBN 34299 (CO))
27 U.S. Department of Justice
28 Env. & Natural Resources Division
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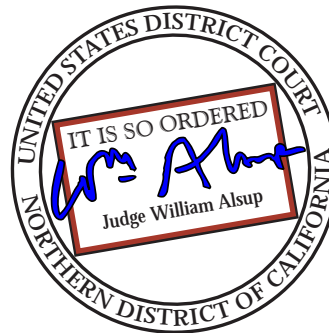
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Attorneys for Plaintiffs

PURSUANT TO STIPULATION, IT IS SO ORDERED

DATE: September 28, 2005



The Honorable William H. Alsup
District Court Judge